

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
ATHENS DIVISION

BASF AGRO B.V., MERIAL LIMITED,  
and MERIAL SAS

Plaintiffs,

v.

CIPLA LIMITED, *et al.*,

Defendants, and

VELCERA, INC. and FIDOPHARM, INC.

Intervenors.

Civil Case No. 3:07-cv-00125-CDL

**PLAINTIFFS MERIAL LIMITED AND MERIAL SAS'S  
NOTICE OF AFFIRMANCE OF THIS COURT'S JUNE 21, 2011 ORDER**

Today, the Federal Circuit affirmed in all respects the Court's June 21, 2011 Order. A copy of the Federal Circuit's Opinion is attached hereto as Appendix A.

On December 29, 2011, the Court granted Intervenors Velscera, Inc.'s And FidoPharm, Inc.'s Emergency Motion To Stay Damages Proceedings Pending Appeal Or In The Alternative For An Extension Of The Discovery Period (D.I. 153). That Order granted a stay of the damages phase of the original contempt proceeding "until May 11, 2012, or until the final ruling on appeal (whichever is sooner)." On December 29, 2011, the Court also entered a text only "Notice of Setting Hearing" in which the hearing on the damages phase was calendared for July 31 – August 3, 2012. On May 4, 2012, in view of the amount of preparation necessary for the second contempt hearing scheduled for May 21, the parties agreed, and the Court ordered, the stay of the damages phase of the original contempt proceeding extended until at least May 21, 2012.

Prior to the Court's Order granting Velcera's requested stay, under the then existing Scheduling Order (D.I. 111), Merial had submitted its damages expert reports on December 22, 2011, and Velcera and Cipla were to submit their damages expert reports on January 9, 2012, with expert depositions to begin thereafter on January 20, 2012. Given the Federal Circuit's affirmance, Merial respectfully requests that the stay of the damages phase of this litigation be formally lifted.

In light of today's decision by the Federal Circuit and the status and timing of the damages phase of the original contempt proceeding at the time the stay was imposed, Merial submits that Velcera's and Cipla's expert reports on damages should be due on June 11, 2012 (since their reports were due eleven days from the date the stay was imposed), with expert depositions to follow and a hearing on damages to be held on July 31, 2012 – August 3, 2012.

Respectfully submitted, this 31st day of May, 2012.

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